

# FHWA Risk Based Stewardship and Oversight

## *presenters*

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## *moderator*

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*Road School March 2015*

# Overview



Today we will be discussing:

- **FHWA Risk Based Stewardship & Oversight**
  - Stewardship & Oversight Agreement
  - PODIs (Projects of Division Interest)
  - CAP (Compliance Assessment Program)



# Sharing FAHP Responsibilities

- **ISTEA established the release of project authority to the States with oversight agreements**
- **Extent to which the State DOT assumes project and program responsibilities is documented in the Stewardship & Oversight (S&O) Agreement**



# Sharing FAHP Responsibilities *cont.*

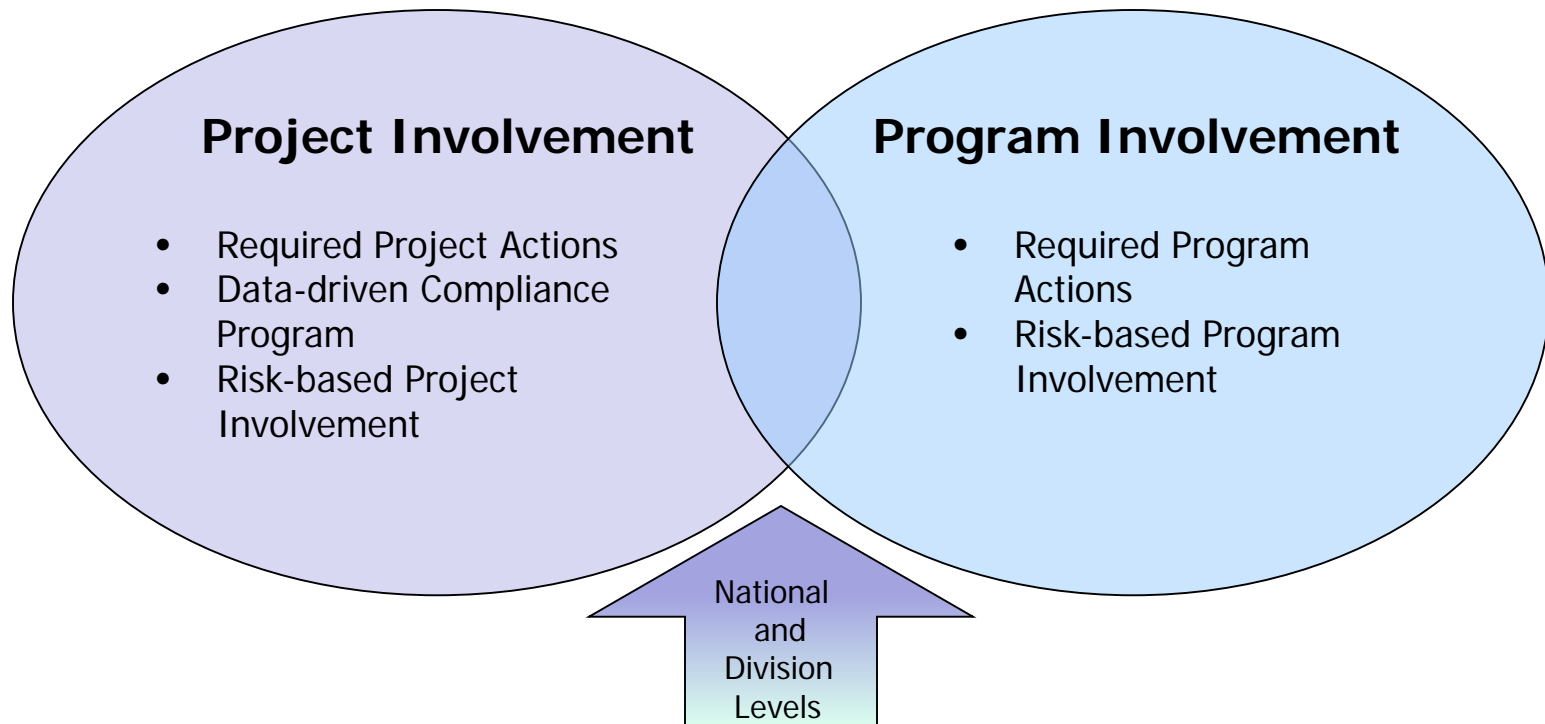
- **MAP-21 Impacts to S&O Agreements include**
  - Removes provision prohibiting State oversight of projects exceeding \$1M
  - Emphasizes a risk-based approach to oversight



# FHWA RBSO

FHWA Innovative Program Delivery Web site Risk Management link:

[http://www.fhwa.dot.gov/ipd/project\\_delivery/resources/risk\\_management/](http://www.fhwa.dot.gov/ipd/project_delivery/resources/risk_management/)



## Core Principles of RBSO

- Risk-based    - Data-driven    -Value-added    -Consistent



# FHWA-IN/INDOT S&O Agreement



FEDERAL HIGHWAY  
ADMINISTRATION

## STEWARDSHIP AND OVERSIGHT AGREEMENT ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT

BY AND BETWEEN

FEDERAL HIGHWAY ADMINISTRATION, INDIANA DIVISION

AND THE

STATE OF INDIANA DEPARTMENT OF TRANSPORTATION



### SECTION I. BACKGROUND AND INTRODUCTION

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c), as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-



**Indiana**  
A State that Works

# Project Action Responsibility

This matrix can be found at:

[http://www.fhwa.dot.gov/federalaid/stewardship/140328\\_so\\_atta.xlsx](http://www.fhwa.dot.gov/federalaid/stewardship/140328_so_atta.xlsx)

FHWA and INDOT Stewardship and Oversight Agreement – Attachment A    DRAFT    Effective: [enter date]

| PROJECT ACTION RESPONSIBILITY MATRIX   |   |   |
|--|---|---|
| ACTION   | AGENCY RESPONSIBLE  |   |
|  | PROJECTS ON THE NHS   | PROJECTS OFF THE NHS  |
|  | Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority | Assumption of FHWA Responsibilities under 23 U.S.C. 106(c) or other statutory or regulatory authority |
| Concur in termination of construction contracts [23 CFR 635.125]   | FHWA (4)  | STATE   |
| Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)   | FHWA  | FHWA  |
| Final inspection/acceptance of completed work [23 USC 114(a)]  | STATE (4)   | STATE   |
| Approval of temporary closures [23CFR658.11]   | FHWA for Interstate<br>STATE for Non-Interstate   | STATE   |
| <b>CIVIL RIGHTS (All phases)</b>   |   |   |
| Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the State DOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)] | STATE (4)   | STATE   |
| Acceptance of Bidder's Good Faith Efforts to Meet Contract   |   |   |



# S&O Agreement Summary

## ■ Key Take-a-Ways

- More FHWA presence on LPA Projects
- FHWA Program Reviews to gather information on the status of processes conducted by the INDOT and LPAs

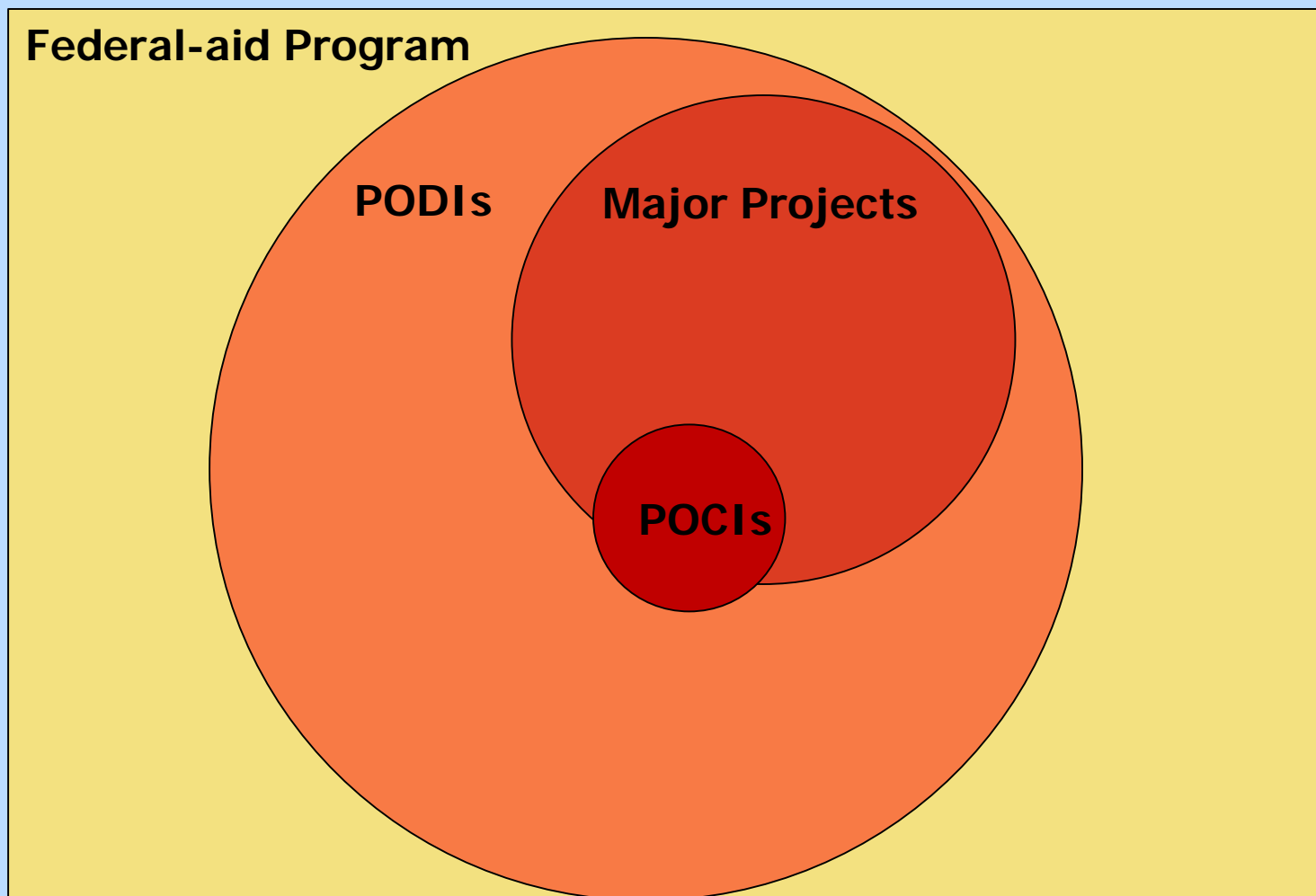




# RBSO & INDOT



## State Highway Program of Projects



# PODIs/POCIs

- **Project of Division Interest (PODI)**
  - Elevated project risk or risk elements
- **Project of Corporate Interest (POCI)**
  - POCIs are a subset of PODIs
  - Projects that FHWA deemed to have significant risk and may commit additional resources beyond those available at the individual Division level to help ensure successful delivery of the project. They will receive focused, strategic, agency-wide attention, and an increased level of S&O.



# How PODIs/POCIs are ID'd



- **Major Projects have a high potential to be a POCI project**
- **FHWA Resource Deployment Tool (RDT)**
  - Used to conduct a risk-based assessment to identify areas of elevated risk for each project, identify the Division capacity to manage the risk
  - Determine if the project is recommended by the Division for selection as a final POCI



# How PODIs/POCIs are ID'd

- **Two step pre-screening process**
  - Step 1 – Identify a shortlist of projects
  - Step 2 – Conduct a risk based assessment
    - Risk Areas assessed include
      - Complexity
      - Cost
      - Schedule
      - Urgency
      - Environment & Stakeholders
      - Funding
      - National & Regional Significance
      - Corporate Actions
      - Local Considerations



# S&O Project Plans



- **Apply to Final List of PODI/POCI Projects**
- **Project Plan is meant to be**
  - Concise document that identifies the areas of risk for the project
  - Outlines the FHWA involvement that will help assure project compliance and/or add value to the elements of the project
  - Briefly describe the reason FHWA is providing risk-based oversight and what FHWA plans to do to oversee the project.



# Project Plans

- **PODIs/POCIs are identified on an annual basis**
- **Each year Project plans drafted, reviewed & finalized by June 1**
- **Located in INDOTs ERMS system**



# Project Plans – Example

| Project Name  | Description   | State/County    | FMIS #  | State ID # | FHWA Contact  |
|---|---|-----------------|---------|------------|---------------|
| I-65 & I-465 S<br>Interchange<br>modification,<br>Operation Indy<br>Commute | Interchange<br>modification and added<br>travel lanes to Emerson<br>on 465 & to Southport<br>Rd on 65 | Indiana/ Marion | 0902297 | 0902297    | Eryn Fletcher |

1. Is this PoDI(s) also a PoCI? ☐ Yes ☒ No
2. What is the primary PoDI Type (select one)?
  - ☐ Major Project (>\$500M); 23 USC 106(h)
  - ☒ Appalachian Development Highway Project
  - ☐ TIGER Discretionary Grant Project
  - ☐ NHS Projects with Retained FHWA Project Approval; 23 USC 106(c) (1)
  - ☐ Non-NHS with Retained Actions; 23 USC 106(c) (2) *(as requested by State)*
  - ☒ Projects Selected for Risk-based Stewardship & Oversight; 23 USC 106(g)



# Project Plans – Example



3. What are the applicable risk areas associated with the PoDI (select all that apply):

- ☒ Complexity
- ☐ Cost
- ☒ Schedule
- ☐ Urgency
- ☐ Environment & Stakeholders
- ☐ Funding
- ☒ Project Administration
- ☒ National/Regional Significance
- ☐ Corporate Actions
- ☐ Local Considerations
- ☒ Other: Describe: Freight

Please provide a general description of the risks:

- Complexity: The project is in an urban constrained area on high volume roads with significant truck volumes and limited right of way.
- Schedule: Due to significant traffic impacts, the project construction timeline is compressed
- Project Administration: There are some risks to meeting construction quality assurance requirements due to the current project staffing levels.
- National/ regional significance: This project is located on a heavily travelled interstate corridor, inside the largest metropolitan area of the State.
- Other – Freight: The project involves multiple high volume interstates that are primary freight routes.





# Project Plans – Example



4. What are the general project elements that will be reviewed (select all that apply):

- ☐ Project Authorization and Project Agreement
- ☐ Project Planning and Programming
- ☒ Project Financing
- ☐ Environmental Clearances/NEPA
- ☐ Preliminary Design
- ☐ Final Design
- ☐ Plan, Specification, & Estimate Development
- ☐ Advertising and Award
- ☐ Innovative Contracting/Design Build
- ☒ Contract Administration
- ☒ Construction Inspection & Quality
- ☐ Other – Describe:

Please provide a specific description of the elements that will be reviewed:

- Contract Administration
  - Major Change Orders and Claims
  - Buy America records
- Construction Inspection & Quality
  - Erosion and Sediment Control
  - Transportation Management – temporary traffic control
  - Innovative concrete surface treatment
  - Annual overall construction compliance inspection



# Project Plans – Example



5. What are the general S&O activities that the Division will conduct in response to risk (select all that apply):

- ☒ Retained Project Approval Actions
- ☐ Project/Technical Meetings
- ☐ Document/Plan Review
- ☒ Field Review/Inspection & Report
- ☒ Program/Process Reviews & Report
- ☒ CAP Review
- ☐ Special Review
- ☐ Other – Describe:

Please provide a specific description of the activities that will be conducted:

- Project Approval Actions
  - Prior approval of major change orders (Fletcher)
  - Approval of any revisions to the approved interstate access modification (Fletcher)
  - Approve revisions to noise study and noise wall locations (Heil)
- Field review/ Inspection & Report
  - An erosion and sediment control review will take place once to evaluate compliance. If there are significant issues with erosion and sediment control, then additional reviews will take place as needed. (Fletcher)



# Project Plans – Example

- Inspect temporary traffic control periodically (Fletcher\*, Drumm)
  - Inspect installation of Highways-for-Life experimental concrete surface treatment for noise control (Duncan)
  - A traditional construction inspection of the project will take place once to evaluate compliance. If significant issues arise, additional inspections will take place as needed. (Fletcher)
  - Review project commitment implementation (Fletcher, Heil)
  - CAP review – Will conduct CAP review if project is in PY 2015 sample population. (Fletcher)
6. If the project is a PoCI, what specific corporate resources were committed to this project?
7. What were the results of the Division's involvement in the project(s)?
8. Additional Information:



# PODI/POCI Summary

## ■ Key Take-a-Ways

- PODI/POCI Projects – established annually
- Project Plans are developed for PODI/POCI
- INDOT Project Managers use Project Plans to identify when to coordinate with FHWA



- **Compliance Assessment Program**
- **What is CAP?**
  - Statistical random sample of Projects for annual review
  - Typically 10-12% of INDOT projects
  - Purpose: to provide reasonable assurance that Federal-aid highway projects comply with key federal requirements

## ■ Guides available in the first year

- Civil Rights
- Contract Administration
- Emergency Relief
- Environment
- Finance
- Material Quality
- Planning
- Realty
- Work Zone Safety
- Core

- **62 Sampled Projects**

- **Process**

- Documents


- FHWA provides list of needed source documents
    - List of Projects w/ DES#, Contract # & Description
    - Review Area Methodology

- Site Visits (as req'd)

- Complete the guides

# CAP – Core Guide project demographics



|  <b>PY15 CAP Core Question Guide</b><br>FHWA Compliance Assessment Program  |                 |                |  |         |
|--|-----------------|----------------|--|---------|
| FHWA DIVISION  | PMI TEAM ID#    | DATE OF REVIEW | FEDERAL PROJECT # <input type="text"/><br>STATE PROJECT # <input type="text"/>               |         |
| <input type="checkbox"/> INTERSTATE<br><input type="checkbox"/> NHS<br><input type="checkbox"/> NON-NHS  |                 |                | <input type="checkbox"/> STATE ADMINISTERED<br><input type="checkbox"/> LOCALLY ADMINISTERED |         |
| PROJECT DESCRIPTION<br><input type="text"/>  |                 |                |  |         |
| INDIVIDUAL (S) CONDUCTING REVIEW<br><input type="text"/>   |                 |                |  |         |
| SUPERVISOR REVIEW<br>NAME: <input type="text"/><br>DATE: <input type="text"/>  |                 |                |  |         |
| ADDITIONAL CAP REVIEW GUIDE(S) USED ON THIS REVIEW (LIST ALL)<br><br>  |                 |                |  |         |
| <b>Instructions</b> <ol style="list-style-type: none"> <li>1. Complete all questions in the CAP Core Question Guide for all CAP reviews. Do not modify questions.</li> <li>2. Directly verify all answers with source documentation.</li> <li>3. <u>Do not</u> correct deficiencies and then adjust CAP answers. Answers must reflect status at time of review.</li> <li>4. Provide clarifying comments for each answer.</li> <li>5. Enter answers and comments from each CAP Core Question Guide into the CAP SharePoint Site.</li> <li>6. Ensure source documentation is retained by the Division or State and available as necessary for quality assurance reviews or audits.</li> <li>7. Use answers and comments from each CAP Review Guide for local trending and analysis.</li> </ol> |                 |                |  |         |
| #  | CORE QUESTIONS  | CITATION       | ANSWER   | COMMENT |
| CO1  | Was the project | 23 CFR         | Yes, the project was included  |         |





# CAP – Core Guide question 1 and 2



| #   | CORE QUESTIONS  | CITATION                                  | ANSWER   | COMMENT |
|-----|---|---|--|---------|
| CQ1 | Was the project included in the FHWA/FTA approved/amended Statewide Transportation Improvement Program (STIP) prior to the date of authorization  | 23 CFR 450.220(a)<br>23 CFR 450.220(b)    | <b>Yes</b> , the project was included in the FHWA/FTA approved/amended STIP prior to the date of authorization in FMIS<br><br><b>No</b> , the project was not included in the FHWA/FTA approved/amended STIP prior to authorization (comment required)   |         |
|     | in FMIS?  |   | <b>N/A</b> , requirement does not apply (comment required)<br><br><b>Don't Know</b> , could not be verified at the time of review (comment required)   |         |
| CQ2 | Was the appropriate NEPA action completed prior to the date of authorization in FMIS, i.e. Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) determination? | 23 CFR 635.309(j)<br>23 CFR 771.113(a)(1) | <b>Yes</b> , the appropriate NEPA action was completed prior to the date of authorization in FMIS, i.e. ROD, FONSI, or CE determination<br><br><b>No</b> , the appropriate NEPA action was not completed prior to the date of authorization in FMIS, i.e. ROD, FONSI, or CE determination (comment required)<br><br><b>N/A</b> , requirement does not apply (comment required)<br><br><b>Don't Know</b> , could not be verified at the time of review (comment required) |         |



# CAP – Core Guide question 3



|     |   |                   |  |
|-----|---|-------------------|--|
| CQ3 | Did the State provide a statement regarding the status of all ROW, utility, and railroad work prior to the date of authorization in FMIS? | 23 CFR 635.309(b) | <p><b>Yes</b>, the State provided a statement that all right-of-way clearance, utility, and railroad work has been completed prior to the date of authorization in FMIS</p> <p><b>Yes</b>, the State provided a <u>conditional</u> statement for right-of-way clearance, utility, and railroad work that necessary arrangements have been made for it to be undertaken and completed for proper coordination with the physical construction</p> <p><b>No</b>, the State did not provide a statement that all right-of-way clearance, utility, and railroad work has been completed prior to the date of authorization in FMIS (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p> |
|-----|---|-------------------|--|



# CAP – Core Guide question 4 and 5



|     |   |  |  |  |
|-----|---|--|--|--|
| CQ4 | Is the Form FHWA-1273 contract provisions physically incorporated into the construction contract?   | 23 CFR 633.102(b)<br>23 CFR 633.103      | <p><b>Yes</b>, Form FHWA-1273 contract provisions are physically incorporated in the construction contract.</p> <p><b>No</b>, Form FHWA-1273 contract provisions are not physically incorporated in the construction contract. (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p>  |  |
| CQ5 | Do the approved project plans and specifications include a Transportation Management Plan (TMP) or provisions for the Contractor to develop a plan?<br><br><i>For projects or classes of projects that the State determines to have less than significant work zone impacts, the TMP may consist only of a TTC plan</i> | 23 CFR 630.1012(b)<br>23 CFR 630.1012(c) | <p><b>Yes</b>, the approved project plans and specifications include a Transportation Management Plan (TMP) or provisions for the Contractor to develop a plan</p> <p><b>No</b>, the approved project plans and specifications do not include a Transportation Management Plan (TMP) or provisions for the Contractor to develop a plan (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p> |  |



# CAP – Core Guide question 6 and 7



|     |   |  |  |  |
|-----|---|--|--|--|
| CQ6 | Following opening of bids, did the State examine the unit bid prices of the apparent low bid for reasonable conformance with the engineer's estimated prices, including obvious unbalancing of unit prices? | <p>23 CFR 635.114(c)</p> <p>23 CFR 635.114(d)</p> <p>23 CFR 635.114(k)</p>                     | <p><b>Yes</b>, the State examined the unit bid prices of the apparent low bid for reasonable conformance with the engineer's estimated prices and obvious unbalancing of unit prices, in accordance with State procedures</p> <p><b>No</b>, the State did not examine the unit bid prices of the apparent low bid for reasonable conformance with the engineer's estimated prices and obvious unbalancing of unit prices</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p> | <p>23 CFR 635.114(k) addresses Design Build Contracting</p> <p>See 23 CFR Part 636</p> |
| CQ7 | Is there a full time employed public employee in responsible charge for administering the project?  | <p>23 CFR 635.105(b)</p> <p>23 CFR 635.105(c)(4)</p> <p><a href="#">FHWA Guidance Memo</a></p> | <p><b>Yes</b>, a full time employed State engineer is in responsible charge</p> <p><b>Yes</b>, a full time employed Local Public Agency employee is in responsible for administering the project</p> <p><b>No</b>, there is no full time employed public employee responsible for administering the project (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p>   |  |



# CAP – Core Guide question 8 and 9



|     |   |   |   |  |
|-----|---|---|---|--|
| CQ8 | Are the DBE firms originally identified by the prime contractor at the time of contract award   | 49 CFR 26.53(b)(1)(2)<br>49 CFR 26.53(f)(1) | <p><b>Yes</b>, the DBE firms listed in the contract award documents are the same firms approved to work on the project</p> <p><b>Yes</b>, the DBE firms are not</p>   |  |
|     | the same firms that are approved to work on the project at the time of this review?   |   | <p>the same as those listed in the original contract at the time of award, but they have been changed by "prior written consent" from the State</p> <p><b>No</b>, the DBE firms listed in the contract award documents are not those approved to work on the project (comment required)</p> <p><b>N/A</b>, DBE firms were listed in the contract award documents, but no DBE firms have performed work on the contract to date (comment required)</p> <p><b>N/A</b>, there was no DBE goal on the project (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p> |  |
| CQ9 | Was the State's request for obligation of federal funds supported by a documented cost estimate that is based on the best estimate of cost? | 23 CFR 630.106(a)(3)                        | <p><b>Yes</b>, the obligation of federal funds was adequately supported by a documented cost estimate</p> <p><b>No</b>, the obligation of federal funds was not adequately supported by a documented cost estimate (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p>   |  |



# CAP – Core Guide question 10



| #    | CORE QUESTIONS  | CITATION       | ANSWER  | COMMENT |
|------|---|----------------|---|---------|
| CQ10 | Based on a minimum review of one contract change order or extra work order, was a cost analysis performed and adequately documented for each negotiated change or extra work order? | 23 CFR 635.120 | <p><b>Yes</b>, a cost analysis was performed and adequately documented for each negotiated change or extra work order</p> <p><b>No</b>, a cost analysis was not performed and adequately documented for each negotiated change or extra work order (comment required)</p> <p><b>N/A</b>, requirement does not apply (comment required)</p> <p><b>Don't Know</b>, could not be verified at the time of review (comment required)</p> |         |



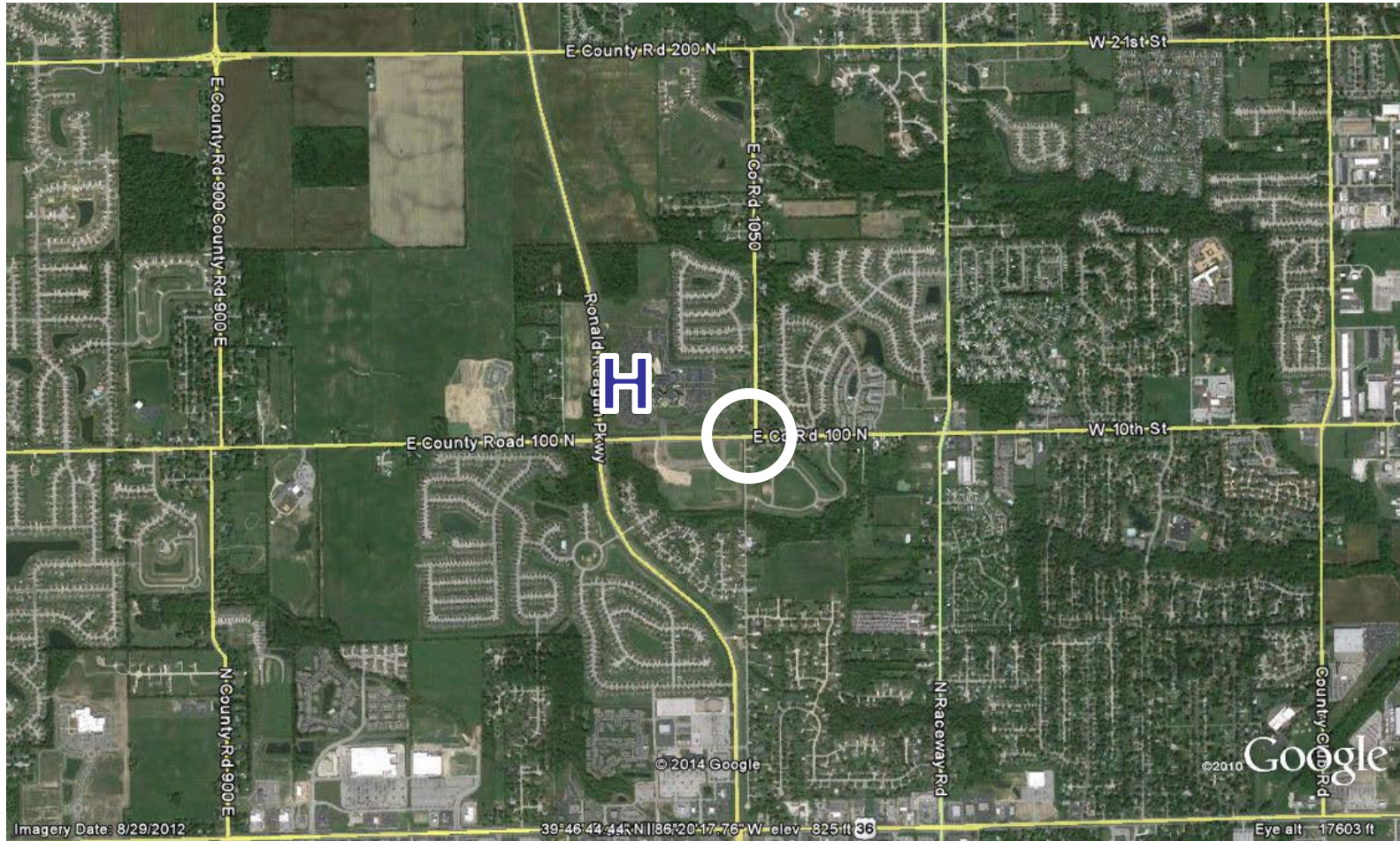


# CAP & PODI Highlights





# CAP & PODI Highlights





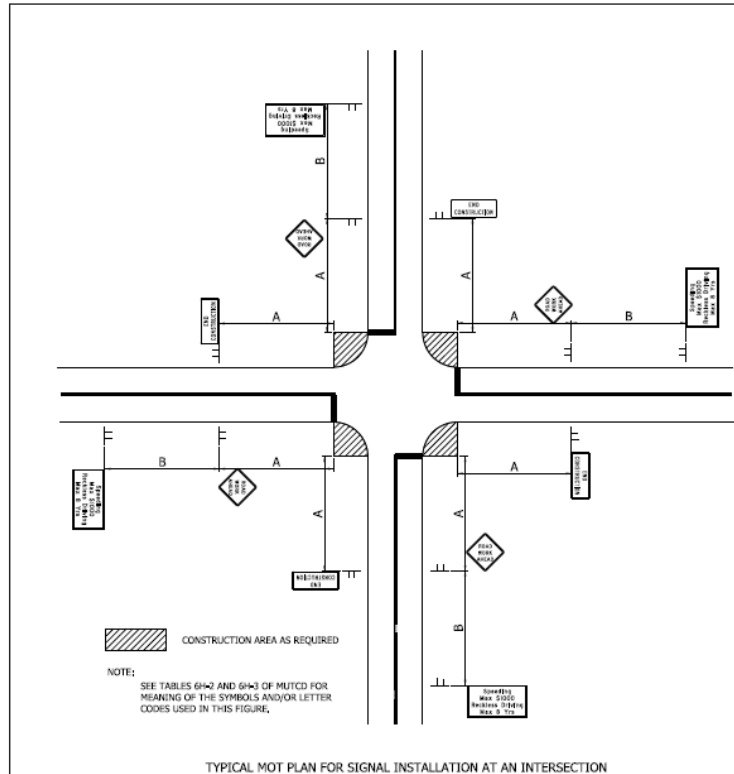
# CAP & PODI Highlights



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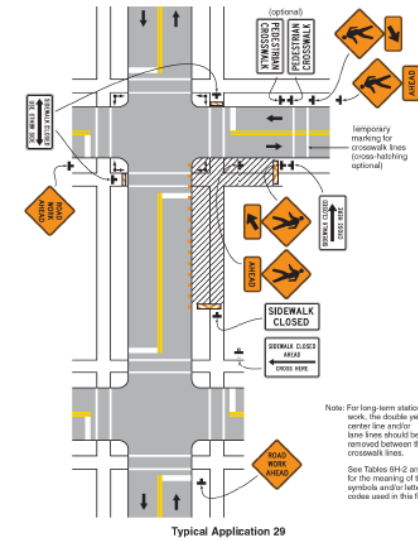
2 ADDED THIS SHEET



2009 Edition

Page 691

Figure 6H-29. Crosswalk Closures and Pedestrian Detours (TA-29)



December 2009

Sec. 08011



|                          |            |
|--------------------------|------------|
| RECOMMENDED FOR APPROVAL | 2014.03.24 |
| 15-4639 -0400            |            |
| DESIGNER                 | DATE       |
| DESIGNED BY              | 3/20/14    |
| CHECKED BY               | 3/20/14    |

INDIANA  
DEPARTMENT OF TRANSPORTATION

TYPICAL MOT SHEET

|             |             |
|-------------|-------------|
| SCALE       | BRIDGE FILE |
| N/S         | DESIGNATION |
| SURVEY BOOK | 11/13/08    |
| CONTRACT    | 15          |
| T. SHEET    | 11/13/08    |



# CAP & PODI Highlights



## **SPECIAL PROVISION FOR TEMPORARY TRAFFIC CONTROL FOR TRAFFIC SIGNAL**

### **MODERNIZATION & NEW CURB RAMP INSTALLATIONS**

This Special Provision is written for the Temporary Traffic Control for Traffic Signal Modernization & new Curb Ramp installations at each location.

- During the construction of the Curb Ramps, connected pedestrian sidewalks and crossings shall be closed and detours provided as per MUTCD's TTC plan TA-29. A copy is attached for ready reference.
- The work specified shall be arranged and prosecuted such that each curb ramp is closed to pedestrian traffic for not longer than 7 calendar days. The sum of \$500.00 will be assessed as liquidated damages, not as a penalty, but as damages sustained for each day, or fraction thereof, that a curb ramp is closed beyond the 7 calendar days.

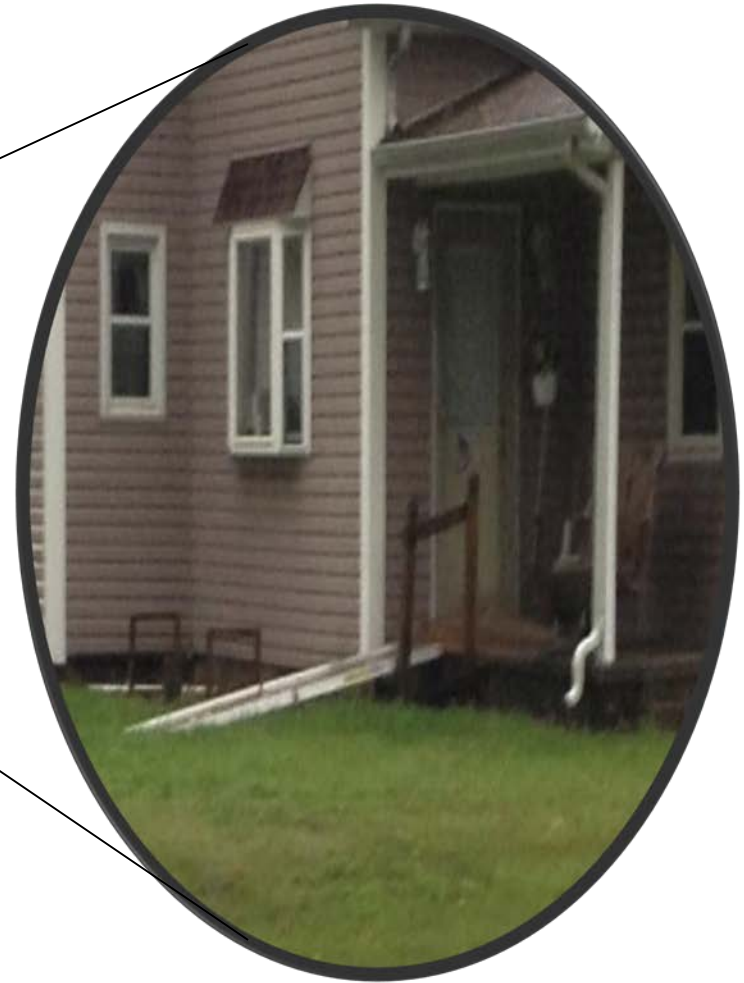




# CAP & PODI Highlights



# CAP & PODI Highlights



# What's next for CAP & PODI



| WHEN     | WHAT                                     |
|----------|--|
| Feb-Mar  | PODI Selected                            |
| Apr      | CAP ID'd                                 |
| May-June | CAP Documentation                        |
| June-Oct | Field Visits                             |
| Aug-Oct  | Complete Guides                          |
| Nov-Dec  | Final Report                             |
| On-going | Program/Process Reviews and PODI actions |



# Time for Discussion and Q's

?

